

117TH CONGRESS  
1ST SESSION

# H. R. 3434

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2021

Ms. PLASKETT (for herself, Miss GONZÁLEZ-COLÓN, Mrs. RADEWAGEN, Mr. SABLÁN, Mr. SAN NICOLAS, Ms. CLARKE of New York, Mr. GRIJALVA, Ms. PRESSLEY, Mr. SOTO, Mr. TORRES of New York, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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# A BILL

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the

5       “Territories Health Equity Act of 2021”.

1       (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

## Sec. 1. Short title; table of contents.

## TITLE I—MEDICAID

Sec. 101. Elimination of general medicaid funding limitations (“cap”) for territories.

Sec. 102. Elimination of specific Federal medical assistance percentage (FMAP) limitation for territories.

**Sec. 103. Permitting Medicaid DSH allotments for territories.**

## TITLE II—MEDICARE

## Subtitle A—Part A

Sec. 201. Calculation of Medicare DSH payments for IPPS hospitals in Puerto Rico.

**Sec. 202. Rebasing target amount for hospitals in territories.**

Sec. 203. Medicare DSH target adjustment for hospitals in territories.

Subtitle B—Part B

Sec. 211. Eliminating late enrollment penalties under part B of the Medicare program for certain individuals residing in Puerto Rico.

## Subtitle C—Medicare Advantage (Part C)

Sec. 221. Adjustment in benchmark for low-base payment counties in Puerto Rico.

#### Subtitle D—Part D

Sec. 231. Automatic eligibility of certain low-income territorial residents for premium and cost-sharing subsidies under the Medicare program; sunset of enhanced allotment program.

### TITLE III—MISCELLANEOUS

**Sec. 301. Medicaid and CHIP territory transparency and information.**

Sec. 302. Report on exclusion of territories from Exchanges.

Sec. 303. Access to coverage for individuals in certain areas without any available Exchange plans.

## **TITLE I—MEDICAID**

#### 4 SEC. 101. ELIMINATION OF GENERAL MEDICAID FUNDING

## 5 LIMITATIONS (“CAP”) FOR TERRITORIES.

(a) IN GENERAL.—Section 1108 of the Social Security Act (42 U.S.C. 1308) is amended—

1                   (1) in subsection (f), in the matter preceding  
2                   paragraph (1), by striking “subsections (g) and (h)”  
3                   and inserting “subsections (g), (h), and (i)”;

4                   (2) in subsection (g)(2), in the matter pre-  
5                   ceding subparagraph (A), by inserting “subsection  
6                   (i) and” after “subject to”; and

7                   (3) by adding at the end the following new sub-  
8                   section:

9                   “(i) SUNSET OF MEDICAID FUNDING LIMITATIONS  
10 FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE  
11 NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA.—  
12 Subsections (f) and (g) shall not apply to Puerto Rico,  
13 the Virgin Islands, Guam, the Northern Mariana Islands,  
14 and American Samoa beginning with fiscal year 2022.”.

15                   (b) CONFORMING AMENDMENTS.—

16                   (1) Section 1902(j) of the Social Security Act  
17                   (42 U.S.C. 1396a(j)) is amended by striking “, the  
18                   limitation in section 1108(f),”.

19                   (2) Section 1903(u) of the Social Security Act  
20                   (42 U.S.C. 1396b(u)) is amended by striking para-  
21                   graph (4).

22                   (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply beginning with fiscal year 2022.

**1 SEC. 102. ELIMINATION OF SPECIFIC FEDERAL MEDICAL  
2 ASSISTANCE PERCENTAGE (FMAP) LIMITA-  
3 TION FOR TERRITORIES.**

4 Section 1905(b) of the Social Security Act (42 U.S.C.  
5 1396d(b)) is amended, in clause (2), by inserting “for fis-  
6 cal years before fiscal year 2022” after “American  
7 Samoa”.

8 SEC. 103. PERMITTING MEDICAID DSH ALLOTMENTS FOR  
9 TERRITORIES.

10       Section 1923(f) of the Social Security Act (42 U.S.C.  
11 1396r-4(f)) is amended—

12 (1) in paragraph (6), by adding at the end the  
13 following new subparagraph:

14                           “(C) TERRITORIES.—

“(i) FISCAL YEAR 2022.—For fiscal year 2022, the DSH allotment for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall bear the same ratio to \$300,000,000 as the ratio of the number of individuals who are low-income or uninsured and residing in such respective territory (as estimated from time to time by the Secretary) bears to the sums of the number of such individuals residing in all of the territories.

1                         “(ii) SUBSEQUENT FISCAL YEAR.—

2                         For each subsequent fiscal year, the DSH  
3                         allotment for each such territory is subject  
4                         to an increase in accordance with para-  
5                         graph (3).”;

6                         (2) in paragraph (9), by inserting before the pe-  
7                         riod at the end the following: “, and includes, begin-  
8                         ning with fiscal year 2022, Puerto Rico, the Virgin  
9                         Islands, Guam, the Northern Mariana Islands, and  
10                         American Samoa”.

## 11                         **TITLE II—MEDICARE**

### 12                         **Subtitle A—Part A**

#### 13                         **SEC. 201. CALCULATION OF MEDICARE DSH PAYMENTS FOR** 14                         **IPPS HOSPITALS IN PUERTO RICO.**

15                         Section 1886(d)(9)(D)(iii) of the Social Security Act  
16                         (42 U.S.C. 1395ww(d)(9)(D)(iii)) is amended to read as  
17                         follows:

18                         “(iii) Subparagraph (F) (relating to  
19                         disproportionate share payments), includ-  
20                         ing application of subsection (r), except  
21                         that for this purpose—

22                         “(I) the sum described in clause  
23                         (ii) of this subparagraph shall be sub-  
24                         stituted for the sum referred to in  
25                         paragraph (5)(F)(ii)(I); and

1                         “(II) for discharges occurring on  
2                         or after October 1, 2021, subclause  
3                         (I) of paragraph (5)(F)(vi) shall be  
4                         applied by substituting for the numer-  
5                         ator described in such subclause the  
6                         number of subsection (d) Puerto Rico  
7                         hospital’s patient days for the cost re-  
8                         porting period involved which were  
9                         made up of patients who (for such  
10                        days) were entitled to benefits under  
11                         part A of this title and were—

12                         “(aa) entitled to supple-  
13                         mentary security income benefits  
14                         (excluding any State supplemen-  
15                         tation) under title XVI;

16                         “(bb) eligible for medical as-  
17                         sistance under a State plan  
18                         under title XIX; or

19                         “(cc) receiving aid or assist-  
20                         ance under any plan of the State  
21                         approved under title I, X, XIV,  
22                         or XVI.”.

1   **SEC. 202. REBASING TARGET AMOUNT FOR HOSPITALS IN**  
2                   **TERRITORIES.**

3                 Section 1886(b)(3) of the Social Security Act (42  
4   U.S.C. 1395ww(b)(3)) is amended by adding at the end  
5   the following new subparagraph:

6                         “(M)(i) For each cost reporting period be-  
7                         ginning on or after October 1, 2021, in the case  
8                         of a hospital located in a territory of the United  
9                         States, there shall be substituted for the target  
10                         amount otherwise determined under subpara-  
11                         graph (A) the rebased target amount (as de-  
12                         fined in clause (ii)), if such substitution results  
13                         in an amount of payment under this section to  
14                         the hospital for such period that is greater than  
15                         the amount of payment that would be made  
16                         under this section to the hospital for such pe-  
17                         riod if this subparagraph were not to apply.

18                         “(ii) For purposes of this subparagraph,  
19                         the term ‘rebased target amount’ has the mean-  
20                         ing given the term ‘target amount’ in subpara-  
21                         graph (A), except that—

22                         “(I) there shall be substituted for the  
23                         preceding 12-month cost reporting period  
24                         the 12-month cost reporting period begin-  
25                         ning during fiscal year 2015 (or, at the op-

3                         “(II) any reference in subparagraph  
4                         (A)(i) to the ‘first such cost reporting pe-  
5                         riod’ is deemed a reference to the first cost  
6                         reporting period following the 12-month  
7                         cost reporting period beginning during fis-  
8                         cal year 2015 (or, at the option of the hos-  
9                         pital, beginning during fiscal year 2017);  
0                         and

15                   “(iii) Nothing in this subparagraph shall  
16                   affect any request by a hospital for a new tar-  
17                   get amount for any cost reporting period begin-  
18                   ning during a fiscal year after fiscal year  
19                   2021.”.

**20 SEC. 203. MEDICARE DSH TARGET ADJUSTMENT FOR HOS-  
21 PITALS IN TERRITORIES.**

22 Section 1886(b)(3) of the Social Security Act (42  
23 U.S.C. 1395ww(b)(3)), as amended by section 202, is fur-  
24 ther amended by adding at the end the following new sub-  
25 paragraph:

1                 “(N)(i) For each cost reporting period be-  
2 ginning on or after October 1, 2021, in the case  
3 of a hospital that is located in a territory of the  
4 United States other than Puerto Rico and that  
5 would be a subsection (d) hospital if it were lo-  
6 cated in one of the 50 States, the target  
7 amount shall be increased by—

8                 “(I) in the case that such hospital has  
9 a disproportionate patient percentage of  
10 not less than 15 percent and not greater  
11 than 40 percent, 10 percent; and

12                 “(II) in the case that such hospital  
13 has a disproportionate patient percentage  
14 of greater than 40 percent, 10 percent plus  
15 60 percent of the number of percentage  
16 points by which such hospital’s dispro-  
17 portionate patient percentage exceeds 40 per-  
18 cent.

19                 “(ii) For purposes of this subparagraph,  
20 the term ‘disproportionate patient percentage’  
21 has the meaning given such term in subsection  
22 (d)(5)(F)(vi), except that in applying such  
23 meaning any reference under such subsection to  
24 individuals entitled to supplementary security  
25 income under title XVI shall be deemed for pur-

1           poses of this subparagraph to include individ-  
2           uals—

3                 “(I) eligible for medical assistance  
4                 under a State plan under title XIX; or

5                 “(II) receiving aid or assistance under  
6                 any plan of the territory approved under  
7                 title I, X, XIV, or XVI.”.

## 8           **Subtitle B—Part B**

### 9    **SEC. 211. ELIMINATING LATE ENROLLMENT PENALTIES** 10           **UNDER PART B OF THE MEDICARE PROGRAM** 11           **FOR CERTAIN INDIVIDUALS RESIDING IN** 12           **PUERTO RICO.**

13           (a) IN GENERAL.—Section 1839(b) of the Social Se-  
14        curity Act (42 U.S.C. 1395r(b)) is amended in the second  
15        sentence by inserting “or months occurring in the 5-year  
16        period beginning on the date on which the individual be-  
17        comes entitled to benefits under part A if such individual  
18        was residing in Puerto Rico as of such date and such date  
19        is after the date that is 4 years before the date of the  
20        enactment of the Territories Health Equity Act of 2021”  
21        before the period at the end of such sentence.

22           (b) APPLICATION.—The amendment made by sub-  
23        section (a) shall apply with respect to premiums paid for  
24        months beginning on or after the date of the enactment  
25        of this Act.

## **1 Subtitle C—Medicare Advantage**

### **2 (Part C)**

**3 SEC. 221. ADJUSTMENT IN BENCHMARK FOR LOW-BASE  
4 PAYMENT COUNTIES IN PUERTO RICO.**

5 Section 1853(n) of the Social Security Act (42 U.S.C.  
6 1395w-23(n)) is amended—

(1) in paragraph (1), by striking “and (5)” and inserting “(5), and (6);

12 (3) by adding at the end the following new  
13 paragraph:

14               “(6) SPECIAL RULES FOR BLENDED BENCH-  
15               MARK AMOUNT FOR TERRITORIES.—

16                     “(A) IN GENERAL.—Subject to paragraph  
17                         (2), the blended benchmark amount for an area  
18                         in a territory for a year (beginning with 2022)  
19                         shall not be less than 80 percent of the national  
20                         average of the base payment amounts specified  
21                         in subparagraph (2)(E) for such year for areas  
22                         within the 50 States and the District of Colum-  
23                         bia.

24                   “(B) LIMITATION.—In no case shall the  
25                   blended benchmark amount for an area in a

1           territory for a year under subparagraph (A) ex-  
2           ceed the lowest blended benchmark amount for  
3           any area within the 50 States and the District  
4           of Columbia for such year.”.

5           **Subtitle D—Part D**

6   **SEC. 231. AUTOMATIC ELIGIBILITY OF CERTAIN LOW-IN-**  
7           **COME TERRITORIAL RESIDENTS FOR PRE-**  
8           **MIUM AND COST-SHARING SUBSIDIES UNDER**  
9           **THE MEDICARE PROGRAM; SUNSET OF EN-**  
10           **HANCED ALLOTMENT PROGRAM.**

11           (a) AUTOMATIC ELIGIBILITY OF CERTAIN LOW-IN-  
12 COME TERRITORIAL RESIDENTS FOR PREMIUM AND  
13 COST-SHARING SUBSIDIES UNDER THE MEDICARE PRO-  
14 GRAM.—

15           (1) IN GENERAL.—Section 1860D-14(a)(3) of  
16 the Social Security Act (42 U.S.C. 1395w-  
17 114(a)(3)) is amended—

18           (A) in subparagraph (B)(v)—

19           (i) in subclause (I), by striking “and”  
20 at the end;

21           (ii) in subclause (II), by striking the  
22 period and inserting “; and”; and

23           (iii) by inserting after subclause (II)  
24 the following new subclause:

1                         “(III) with respect to plan years  
2                         beginning on or after January 1,  
3                         2022, shall provide that any part D  
4                         eligible individual who is enrolled for  
5                         medical assistance under the State  
6                         Medicaid plan of a territory (as de-  
7                         fined in section 1935(f)) under title  
8                         XIX (or a waiver of such a plan) shall  
9                         be treated as a subsidy eligible indi-  
10                         vidual described in paragraph (1).”;  
11                         and

12                         (B) in subparagraph (F), by adding at the  
13                         end the following new sentence: “The previous  
14                         sentence shall not apply with respect to eligi-  
15                         bility determinations for premium and cost-  
16                         sharing subsidies under this section made on or  
17                         after January 1, 2022.”.

18                         (2) CONFORMING AMENDMENT.—Section  
19                         1860D–31(j)(2)(D) of the Social Security Act (42  
20                         U.S.C. 1395w–141(j)(2)(D)) is amended by adding  
21                         at the end the following new sentence: “The previous  
22                         sentence shall not apply with respect to amounts  
23                         made available to a State under this paragraph on  
24                         or after January 1, 2022.”.

1       (b) SUNSET OF ENHANCED ALLOTMENT PRO-  
2 GRAM.—

3                 (1) IN GENERAL.—Section 1935(e) of the So-  
4 cial Security Act (42 U.S.C. 1396u-5(e)) is amend-  
5 ed—

6                     (A) in paragraph (1)(A), by inserting after  
7                     “such State” the following: “before January 1,  
8                     2022”; and

9                     (B) in paragraph (3)—  
10                         (i) in subparagraph (A), in the matter  
11                         preceding clause (i), by inserting after “a  
12                         year” the following: “(before 2022)”; and  
13                         (ii) in subparagraph (B)(iii), by strik-  
14                         ing “a subsequent year” and inserting  
15                         “each of fiscal years 2008 through 2021”.

16                 (2) TERRITORY DEFINED.—Section 1935 of the  
17                 Social Security Act (42 U.S.C. 1396u-5) is amended  
18                 by adding at the end the following new subsection:  
19                 “(f) TERRITORY DEFINED.—In this section, the term  
20                 ‘territory’ means Puerto Rico, the Virgin Islands, Guam,  
21                 the Northern Mariana Islands, and American Samoa.”.

**TITLE III—MISCELLANEOUS****SEC. 301. MEDICAID AND CHIP TERRITORY TRANSPARENCY  
AND INFORMATION.**

(a) PUBLICATION OF INFORMATION ON FEDERAL EXPENDITURES UNDER MEDICAID AND CHIP IN THE TERRITORIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish, and periodically update, on the internet site of the Centers for Medicare & Medicaid Services information on Medicaid and CHIP carried out in the territories of the United States. Such information shall include, with respect to each such territory—

(1) the income levels established by the territory for purposes of eligibility of an individual to receive medical assistance under Medicaid or child health assistance under CHIP;

(2) the number of individuals enrolled in Medicaid and CHIP in such territory;

(3) any State plan amendments in effect to carry out Medicaid or CHIP in such territory;

(4) any waiver of the requirements of title XIX or title XXI issued by the Secretary to carry out Medicaid or CHIP in the territory, including a waiver under section 1115 of the Social Security Act (42 U.S.C. 1315), any application for such a waiver, and

1       any documentation related to such application (in-  
2       cluding correspondence);

3               (5) the amount of the Federal and non-Federal  
4       share of expenditures under Medicaid and CHIP in  
5       such territory;

6               (6) the systems in place for the furnishing of  
7       health care items and services under Medicaid and  
8       CHIP in such territory;

9               (7) the design of CHIP in such territory; and

10              (8) other information regarding the carrying  
11       out of Medicaid and CHIP in the territory that is  
12       published on such internet site with respect to car-  
13       rying out Medicaid and CHIP in each State and the  
14       District of Columbia.

15       (b) DEFINITIONS.—In this section:

16              (1) CHIP.—The term “CHIP” means the  
17       State Children’s Health Insurance Program under  
18       title XXI of the Social Security Act.

19              (2) MEDICAID.—The term “Medicaid” means  
20       the Medicaid program under title XIX of the Social  
21       Security Act.

22              (3) TERRITORY.—The term “territory of the  
23       United States” includes Puerto Rico, the Virgin Is-  
24       lands of the United States, Guam, the Northern  
25       Mariana Islands, and American Samoa.

1   **SEC. 302. REPORT ON EXCLUSION OF TERRITORIES FROM**  
2                   **EXCHANGES.**

3       (a) IN GENERAL.—Not later than February 1, 2022,  
4   the Secretary of Health and Human Services shall submit  
5   to Congress a report that details the adverse impacts in  
6   each territory from the practical exclusion of the terri-  
7   tories from the provisions of part II of subtitle D of title  
8   I of the Patient Protection and Affordable Care Act insos-  
9   far as such provisions provide for the establishment of an  
10   American Health Benefit Exchange or the administration  
11   of a federally facilitated Exchange in each State and in  
12   the District of Columbia for the purpose of making health  
13   insurance more affordable and accessible for individuals  
14   and small businesses.

15       (b) INFORMATION IN REPORT.—The report shall in-  
16   clude information on the following:

17               (1) An estimate of the total number of unin-  
18   sured and underinsured individuals residing in each  
19   territory with respect to health insurance coverage.

20               (2) A description of the number of health insur-  
21   ance issuers in each territory and the health insur-  
22   ance plans these issuers offer.

23               (3) An estimate of the number of individuals re-  
24   siding in each territory who are denied premium and  
25   cost-sharing assistance that would otherwise be  
26   available to them for obtaining health insurance cov-

verage through an Exchange if they resided in one of the 50 States or in the District of Columbia.

(5) An estimate of the number of small employers in each territory that would be eligible to purchase health insurance coverage through a Small Business Health Options Program (SHOP) Marketplace that would operate as part of an Exchange if the employers were in one of the 50 States or in the District of Columbia.

13 SEC. 303. ACCESS TO COVERAGE FOR INDIVIDUALS IN CER-  
14 TAIN AREAS WITHOUT ANY AVAILABLE EX-  
15 CHANGE PLANS.

16        Part 2 of subtitle D of title I of the Patient Protec-  
17 tion and Affordable Care Act (42 U.S.C. 18031 et seq.)  
18 is amended by adding at the end the following:

19 "SEC. 1314. ACCESS TO COVERAGE FOR INDIVIDUALS IN  
20 CERTAIN AREAS WITHOUT ANY AVAILABLE  
21 EXCHANGE PLANS.

22        "(a) IN GENERAL.—

23               “(1) COVERAGE THROUGH DC EXCHANGE.—  
24       Not later than 3 months after the date of enactment  
25       of this section, the Secretary, in consultation with

1       the Secretary of the Treasury and the Director of  
2       the Office of Personnel Management, shall establish  
3       a mechanism to ensure that, for any plan year be-  
4       ginning on or after the date described in subsection  
5       (c), any individual described in paragraph (2) has  
6       access to health insurance coverage which is at least  
7       as broad as the coverage available to Members of  
8       Congress and congressional staff (as defined in sec-  
9       tion 1312(d)(3)(D)) through the Exchange operating  
10      in the District of Columbia. Such individuals shall  
11      be eligible for any premium tax credit under section  
12      36B of the Internal Revenue Code of 1986, reduced  
13      cost sharing under section 1402, and advance deter-  
14      mination and payment of such credits or such reduc-  
15      tions under section 1412 to be administered by the  
16      Secretary, in consultation with the Secretary of the  
17      Treasury and the Director of the Office of Personnel  
18      Management. The District of Columbia, its resi-  
19      dents, and small businesses shall be held harmless  
20      from any increased costs resulting from the enact-  
21      ment of this section.

22           “(2) INDIVIDUAL DESCRIBED.—An individual  
23      described in this paragraph is any individual who—  
24           “(A) is not eligible to enroll in an em-  
25      ployer-sponsored health plan (excluding such a

1 plan that would not be considered minimum es-  
2 sential coverage due to the application of sub-  
3 paragraph (C) of section 36B(c)(2) of the In-  
4 ternal Revenue Code of 1986 if such subpara-  
5 graph applied to such plan); and

6 “(B) is a bona fide resident of any posses-  
7 sion of the United States (as determined under  
8 section 937(a) of such Code) in which the Sec-  
9 retary certifies that no qualified health plan is  
10 offered through an Exchange established under  
11 this title.

12 “(3) POSSESSION OF THE UNITED STATES.—  
13 For purposes of this section, the term ‘possession of  
14 the United States’ shall include such possessions as  
15 are specified in section 937(a)(1) of the Internal  
16 Revenue Code of 1986.

17 “(b) TREATMENT OF POSSESSIONS.—

18 “(1) PAYMENTS TO POSSESSIONS.—

19 “(A) MIRROR CODE POSSESSION.—The  
20 Secretary of the Treasury shall periodically (but  
21 not less frequently than annually) pay to each  
22 possession of the United States with a mirror  
23 code tax system amounts equal to the loss to  
24 that possession by reason of the application of  
25 this section (determined without regard to para-

1 graph (2)) with respect to taxable years begin-  
2 ning after the date described in subsection (c).

3 Such amounts shall be determined by the Sec-  
4 retary of the Treasury based on information  
5 provided by the government of the respective  
6 possession.

7           “(B) OTHER POSSESSIONS.—The Sec-  
8 retary of the Treasury shall periodically (but  
9 not less frequently than annually) pay to each  
10 possession of the United States which does not  
11 have a mirror code tax system amounts esti-  
12 mated by the Secretary of the Treasury as  
13 being equal to the aggregate benefits that would  
14 have been provided to residents of such posses-  
15 sion by reason of the application of this section  
16 for any taxable years beginning after the date  
17 described in subsection (c) if a mirror code tax  
18 system had been in effect in such possession.

19           The preceding sentence shall not apply with re-  
20 spect to any possession of the United States un-  
21 less such possession has a plan, which has been  
22 approved by the Secretary of the Treasury,  
23 under which such possession will promptly dis-  
24 tribute such payments to the residents of such  
25 possession.

1           “(2) COORDINATION WITH CREDIT ALLOWED  
2       AGAINST UNITED STATES INCOME TAXES.—No cred-  
3       it shall be allowed against United States income  
4       taxes for any taxable year under section 36B of the  
5       Internal Revenue Code of 1986 to any person—

6           “(A) to whom a credit is allowed against  
7       taxes imposed by the possession by reason of  
8       this section (determined without regard to this  
9       paragraph) for such taxable year, or

10          “(B) who is eligible for a payment under  
11       a plan described in paragraph (1)(B) with re-  
12       spect to such taxable year.

13          “(3) MIRROR CODE TAX SYSTEM.—For pur-  
14       poses of this subsection, the term ‘mirror code tax  
15       system’ means, with respect to any possession of the  
16       United States, the income tax system of such posses-  
17       sion if the income tax liability of the residents of  
18       such possession under such system is determined by  
19       reference to the income tax laws of the United  
20       States as if such possession were the United States.

21          “(4) TREATMENT OF PAYMENTS.—For pur-  
22       poses of section 1324(b)(2) of title 31, United  
23       States Code, or any similar rule of law, the pay-  
24       ments under this subsection shall be treated in the  
25       same manner as a refund due from the credit al-

1       lowed under section 36B of the Internal Revenue  
2       Code of 1986.

3       “(c) DATE DESCRIBED.—The date described in this  
4       subsection is the date on which the Secretary establishes  
5       the mechanism described in subsection (a)(1).”.

